

The Atlantic Foundation

April 26, 2024

BY ECF

The Honorable Katherine H. Parker
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Thompson v. City of New York, et al.
No. 22-cv-1458-JPO-KHP

Dear Judge Parker:

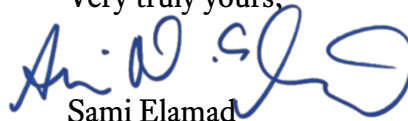
I am writing on behalf of Plaintiff Kwaine Thompson, as his *pro bono* counsel, in connection with the City's pending motion for summary judgment. Pursuant to Rules III (c) and (e) of Your Honor's Individual Rules of Practice in Civil Cases, I write to respectfully request the Court (1) schedule oral argument on the motion; and (2) for leave to file a sur-reply to address new arguments of abandonment and waiver made in the City's Reply Memorandum, *see* ECF No. 120 at 1 & 8-10, as more fully explained below.

As the Court likely knows, in his opposition to the City's motion, Plaintiff explained that he could not present facts essential to justifying his opposition and thus the Court should afford him an opportunity to conduct further discovery. ECF No. 111 at 11-13. On reply, the City recasts that explanation as legally deficient—e.g., “Plaintiff fails to offer any meaningful opposition” (p. 9)—urging the Court to grant summary judgment. This is a brand-new argument, which Plaintiff is prepared to address at either oral argument or the June 24 discovery conference (or both).

Alternatively, if the Court declines to hold oral argument—or even if the Court would find it helpful—Plaintiff respectfully requests leave to file a succinct sur-reply by May 1, 2024.

Thank you very much. I sincerely appreciate the Court's consideration and time.

Very truly yours,


Sami Elamad